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DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 635

[Docket No. 150121066-5717-02]

RIN 0648-XE242

Atlantic Highly Migratory Species; Atlantic Bluefin Tuna Fisheries

AGENCY: National Marine Fisheries Service (NMFS), National Oceanic and Atmospheric Administration (NOAA), Commerce.

ACTION: Temporary rule; inseason quota transfer.

SUMMARY: NMFS is transferring 35 metric tons (mt) of Atlantic bluefin tuna (BFT) quota from the Harpoon category and 65 mt from the Reserve category to the General category for the remainder of the 2015 fishing year. This transfer results in adjusted quotas of 566.7 mt, 43.6 mt and 82.1 mt for the General, Harpoon, and Reserve categories, respectively. This action is based on consideration of the regulatory determination criteria regarding inseason adjustments and applies to Atlantic tunas General category (commercial) permitted vessels and Highly Migratory Species (HMS) Charter/Headboat category permitted vessels when fishing commercially for BFT.

DATES: Effective October 30, 2015 through December 31, 2015.

FOR FURTHER INFORMATION CONTACT: Sarah McLaughlin or Brad McHale, 978-281-9260.

SUPPLEMENTARY INFORMATION: Regulations implemented under the authority of the Atlantic Tunas Convention Act (ATCA; 16 U.S.C. 971 *et seq.*) and the Magnuson-Stevens

Fishery Conservation and Management Act (Magnuson-Stevens Act; 16 U.S.C. 1801 *et seq.*) governing the harvest of BFT by persons and vessels subject to U.S. jurisdiction are found at 50 CFR part 635. Section 635.27 subdivides the U.S. BFT quota recommended by the International Commission for the Conservation of Atlantic Tunas (ICCAT) among the various domestic fishing categories, per the allocations established in the 2006 Consolidated Highly Migratory Species Fishery Management Plan (2006 Consolidated HMS FMP) (71 FR 58058, October 2, 2006), as amended by the recently published Amendment 7 to the 2006 Consolidated HMS FMP (Amendment 7) (79 FR 71510, December 2, 2014). NMFS is required under ATCA and the Magnuson-Stevens Act to provide U.S. fishing vessels with a reasonable opportunity to harvest the ICCAT-recommended quota.

This paragraph describes the current General, Harpoon, and Reserve category quotas, prior to the adjustments taken in this inseason action. NMFS recently implemented a final rule that increased the U.S. BFT quota and subquotas per ICCAT Recommendation 14-05 (80 FR 52198, August 28, 2015). The base quotas for the General category, the Harpoon category, and the Reserve category are 466.7 mt, 38.6 mt, and 24.8 mt, respectively. See § 635.27(a). Each of the General category time periods (January, June through August, September, October through November, and December) is allocated a portion of the annual General category quota.

Although it is called the “January” subquota, the regulations allow the General category fishery under this quota to continue until the subquota is reached or March 31, whichever comes first. Based on the General category quota of 466.7 mt, the subquotas for each time period are as follows: 24.7 mt for January; 233.3 mt for June through August; 123.7 mt for September; 60.7 mt for October through November; and 24.3 mt for December. Any unused General category quota rolls forward within the fishing year, which coincides with the calendar year, from one

time period to the next, and is available for use in subsequent time periods. To date, NMFS has published three inseason quota transfers that have adjusted the available 2015 Reserve category quota, which currently is 147.1 mt (80 FR 7547, February 22, 2015; 80 FR 45098, July 29, 2015; and 80 FR 46516, August 5, 2015). The adjusted Harpoon category quota, following transfer of 40 mt from the Reserve category in the third of the above three inseason transfers as well as implementation of the final BFT quota rule, is 78.6 mt.

Inseason Transfer

The 2015 General category fishery was open January 1, 2015, through March 31, 2015, reopened June 1, 2015, and remains open until December 31, 2015, or until the General category quota is reached, whichever comes first.

Under § 635.27(a)(9), NMFS has the authority to transfer quota among fishing categories or subcategories, after considering determination criteria provided under § 635.27(a)(8), including the five new criteria recently added in Amendment 7, which include: the usefulness of information obtained from catches in the particular category for biological sampling and monitoring of the status of the stock; the catches of the particular category quota to date and the likelihood of closure of that segment of the fishery if no adjustment is made; the projected ability of the vessels fishing under the particular category quota to harvest the additional amount of BFT before the end of the fishing year; the estimated amounts by which quotas for other gear categories of the fishery might be exceeded; effects of the adjustment on BFT rebuilding and overfishing; effects of the adjustment on accomplishing the objectives of the fishery management plan; variations in seasonal distribution, abundance, or migration patterns of BFT; effects of catch rates in one area precluding vessels in another area from having a reasonable opportunity to harvest a portion of the category's quota; review of dealer reports, daily landing trends, and

the availability of the BFT on the fishing grounds; optimizing fishing opportunity; accounting for dead discards, facilitating quota monitoring, supporting other fishing monitoring programs through quota allocations and/or generation of revenue; and support of research through quota allocations and/or generation of revenue.

NMFS has considered the determination criteria regarding inseason adjustments and their applicability to the General category fishery for the end of 2015. These considerations include, but are not limited to, the following: Biological samples collected from BFT landed by General category fishermen and provided by tuna dealers continue to provide NMFS with valuable parts and data for ongoing scientific studies of BFT age and growth, migration, and reproductive status. Additional opportunity to land BFT would support the collection of a broad range of data for these studies and for stock monitoring purposes. Another principal consideration is the objective of providing opportunities to harvest the full annual U.S. BFT quota without exceeding it based on the goals of the 2006 Consolidated HMS FMP and Amendment 7, including to achieve optimum yield on a continuing basis and to optimize the ability of all permit categories to harvest their full BFT quota allocations. General category landings in the winter BFT fishery, which typically begins in December or January each year, are highly variable and depend on availability of commercial-sized BFT to participants. Commercial-sized BFT continue to be landed by General category vessels.

As of October 27, 2015, the General category has landed 458.8 mt, or 98 percent of its 2015 quota of 466.7 mt. Without a quota transfer at this time, NMFS would have to close the 2015 General category fishery as the currently available General category quota would be reached shortly. Overall, approximately 68 percent of the commercial BFT subquotas of 836.5 mt has been harvested. Approximately 90 mt of the Purse Seine and Harpoon categories may

remain unused and activity in those categories has stopped for the year. NMFS will need to account for 2015 landings and dead discards within the adjusted U.S. quota, consistent with ICCAT recommendations, and anticipates having sufficient quota to do that even with this transfer.

This quota transfer would provide additional opportunities to harvest the U.S. bluefin quota without exceeding it, while preserving the opportunity for General category fishermen to participate in the winter BFT fishery. This action is consistent with the quotas recently established and analyzed in the BFT tuna quota final rule (80 FR 52198, August 28, 2015), and consistent with objectives of the 2006 Consolidated HMS FMP and Amendments, and is not expected to negatively impact stock health.

Based on the considerations above, NMFS is transferring 35 mt of Harpoon category quota and 65 mt of Reserve category quota to the General category for the remainder of 2015, resulting in adjusted quotas of 566.7 mt, 43.6 mt and 82.1 mt for the General, Harpoon, and Reserve categories, respectively. NMFS will close the 2015 General category fishery when the adjusted General category quota of 566.7 mt has been reached, or it will close automatically on December 31, 2015.

Monitoring and Reporting

NMFS will continue to monitor the BFT fishery closely. Dealers are required to submit landing reports within 24 hours of a dealer receiving BFT. General, HMS Charter/Headboat, Harpoon, and Angling category vessel owners are required to report the catch of all BFT retained or discarded dead, within 24 hours of the landing(s) or end of each trip, by accessing *hmspermits.noaa.gov*. Depending on the level of fishing effort and catch rates of BFT, NMFS may determine that additional adjustment or closure is necessary to ensure available quota is not

exceeded or to enhance scientific data collection from, and fishing opportunities in, all geographic areas. If needed, subsequent adjustments will be published in the **Federal Register**. In addition, fishermen may call the Atlantic Tunas Information Line at (978) 281-9260, or access *hmspermits.noaa.gov*, for updates on quota monitoring and inseason adjustments.

Classification

The Assistant Administrator for NMFS (AA) finds that it is impracticable and contrary to the public interest to provide prior notice of, and an opportunity for public comment on, this action for the following reasons:

The regulations implementing the 2006 Consolidated HMS FMP and Amendments provide for inseason retention limit adjustments to respond to the unpredictable nature of BFT availability on the fishing grounds, the migratory nature of this species, and the regional variations in the BFT fishery.

Affording prior notice and opportunity for public comment to implement the quota transfer for the remainder of 2015 is impracticable as it would preclude NMFS from acting promptly to allow continued harvest of BFT that are available on the fishing grounds via a quota transfer from the Harpoon and Reserve categories to the General category. The delay would preclude the fishery from harvesting BFT that are available on the fishing grounds and that might otherwise become unavailable during a delay. Therefore, the AA finds good cause under 5 U.S.C. 553(b)(B) to waive prior notice and the opportunity for public comment. For all of the above reasons, there is good cause under 5 U.S.C. 553(d) to waive the 30-day delay in effectiveness.

This action is being taken under § 635.27(a)(9) and is exempt from review under Executive Order 12866.

Authority: 16 U.S.C. 971 *et seq.* and 1801 *et seq.*

Dated: October 30, 2015

Emily H. Menashes,
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National Marine Fisheries Service.

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